

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

TIMOTHY N. TAYLOR,

Petitioner,

v.

**CIVIL ACTION NO. 3:08-CV-108
(BAILEY)**

WAYNE A. PHILLIPS, Warden,

Respondent.

ORDER ADOPTING OPINION/REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Opinion/Report and Recommendation of United States Magistrate Judge John S. Kaull. By Standing Order, this action was referred to Magistrate Judge Kaull for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Kaull filed his R & R on April 21, 2009 [Doc. 19]. In that filing, the magistrate judge recommended that this Court dismiss the § 2241 petition [Doc. 1] with prejudice.

Pursuant to 28 U.S.C. § 636 (b) (1) (c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v. Ridenour***, 889 F.2d 1363, 1366 (4th Cir. 1989); ***United States v. Schronce***,

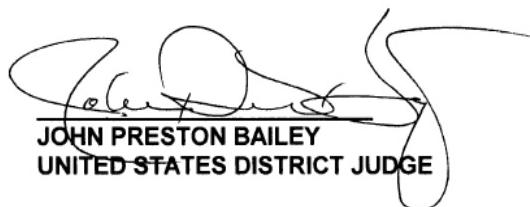
727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Kaull's R & R were due within ten (10) days of receipt of the R & R, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket reflects that service of the R & R was accepted on April 23, 2009. See Doc. 20. To date, neither party has filed objections to the R & R. Accordingly, this Court will review the report and recommendation for clear error.

Upon careful review of the R & R, it is the opinion of this Court that the Magistrate Judge's Opinion/Report and Recommendation [**Doc. 19**] should be, and the same is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Therefore, the Respondent's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment [**Doc. 13**] is hereby **GRANTED**. Accordingly, this Court **DISMISSES with prejudice** the petitioner's § 2241 petition [**Doc. 1**] and **ORDERS** it **STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein and to mail a copy to the *pro se* petitioner.

DATED: May 18, 2009.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE